

Clerk, U.S. District Court  
Southern District of Texas  
FILED

MAY 31 2015

A091 (Rev. 8/01) Criminal Complaint

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS

David J. Bradley, Clerk of Court

UNITED STATES OF AMERICA

V.

Kelley Marie ESCOBAR  
& Marina Silva

## CRIMINAL COMPLAINT

Case Number: C-15-683M

I, the undersigned complainant state that the following is true and correct to the best of my knowledge and belief. On or about 5/29/2015 in Brooks County, in the

(Date)

Southern District of Texas defendant(s), Kelley Marie ESCOBAR  
& Marina Silva

each aiding, abetting and assisting one another, did knowingly or in a reckless disregard of the fact that an alien had come to, entered, or remained in the United States in violation of law, transport, or move or attempt to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law

in violation of Title 8 United States Code, Section(s) 1324.  
I further state that I am a(n) Border Patrol Agent and that this complaint is based on the following facts:

Official Title

See Attached Affidavit of U.S. Border Patrol Agent Marvin Williams

Continued on the attached sheet and made a part of this complaint:

☒ Yes ☐ No

Signature of Complainant

Marvin Williams

Printed Name of Complainant

Submitted by reliable electronic means, sworn to, signature attested telephonically per Fed.R.Crim.P.4.1, and probable cause found:

May 31, 2015 at 11:05 am

Date

B. Janice Ellington, U.S. Magistrate Judge

Name and Title of Judicial Officer

at Corpus Christi, Texas

City and State

Signature of Judicial Officer

The information contained in this report/affidavit is based upon my personal participation in the investigation, which included, but is not limited to information related to me by other agents and officers participating in the investigation.

On May 29, 2015, Border Patrol Agent (BPA) Eduardo Ybarra was assigned primary checkpoint duties at the U.S. Border Patrol Checkpoint south of Falfurrias, Texas. Also working alongside BPA Ybarra on primary was BPA Marivel Railey and her service canine Nicky-F. At approximately, 2000 hours, a silver Nissan Altima bearing Arizona license plates BFA 7819 drove up for inspection of its occupants. BPA Ybarra immediately noticed two occupants.

Once the vehicle was stationary, BPA Ybarra noticed two female occupants that were smiling and eating. BPA Ybarra greeted both occupants later identified as ESCOBAR, Kelly Marie and SILVA, Marina and asked them if they were United States Citizens. While vigorously chewing food the driver later identified as ESCOBAR stated, "Yes". Since arriving at my position ESCOBAR could not stop moving in her seat and chewing food. BPA Ybarra asked both ESCOBAR and the passenger, later identified as SILVA if there was anyone else inside the vehicle, and they both stated, "No". While BPA Ybarra was conducting his immigration inspection, BPA Railey was conducting a non-intrusive free air sniff of the exterior of the vehicle with her service issued canine Nicky-F. During this time BPA Railey advised BPA Ybarra that Nicky-F was alerting to the vehicle specifically the trunk, and that BPA Ybarra should refer the vehicle to the secondary area of inspection. BPA Ybarra asked ESCOBAR what was inside the trunk of her vehicle and, due to her stuttering and rapid speech BPA Ybarra could not understand her answer. BPA Ybarra asked SILVA to translate for ESCOBAR and ESCOBAR kept interrupting her. BPA Ybarra asked ESCOBAR where they were heading to, and ESCOBAR stated, "To San Diego, sir".

Due to the fact that BPA Railey advised that Nicky-F was alerting, BPA Ybarra referred ESCOBAR to the secondary area of inspection. ESCOBAR blabbered, "Yes". ESCOBAR proceeded to park in the inspection lane. When BPA Ybarra informed ESCOBAR of the canine alert her eyes opened wide and mumbled incoherent sentences that he could not understand, but she was no longer smiling.

Once in the secondary area of inspection, ESCOBAR and SILVA remained in the vehicle while the trunk was searched. The trunk was opened revealing two adult male subjects laying inside. An immigration inspection was conducted on both subjects revealing that they were illegally present in the United States. Both subjects, later identified as PEREZ-Aldana, Samuel Alberto and ORELLANA-Galdamez, Francisco Ernesto were placed under arrest and escorted inside the checkpoint. Then both ESCOBAR and SILVA were placed under arrest for alien smuggling and escorted inside the checkpoint.

**NOTE:**

A search of weather.com revealed that the temperature at the time of arrest was 81 degrees Fahrenheit with 74% humidity.

#### **MIRANDA RIGHTS**

BPA Ybarra read both SILVA and ESCOBAR their Miranda Rights with the assistance and witnessing of BPA Sean Williams and BPA Mathew Cooze. SILVA and ESCOBAR signed accordingly indicating that they understood their rights.

#### **PRINCIPAL STATEMENTS:**

ESCOBAR, Kelley Marie:

ESCOBAR stated that she did not want to give a statement at the moment.

**Note:** Record checks revealed Escobar had one prior administrative alien smuggling case and Silva had 2 prior cases.

SILVA, Marina:

SILVA stated that she did not know that there were two subjects inside the trunk of the vehicle. SILVA stated that they were heading to San Diego to visit family. BPA Ybarra asked SILVA if she thought ESCOBAR had knowledge of the two subjects inside the trunk, and SILVA responded, "I am not going to say anything to incriminate myself, and I know ESCOBAR isn't going to say anything either". SILVA stated that the subjects must have got inside the trunk when they stopped at the Loves gas station.

#### **MATERIAL WITNESS STATEMENTS:**

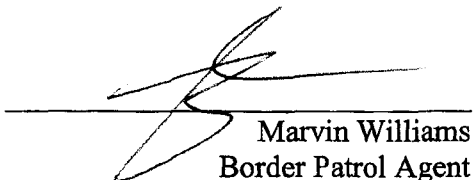
PEREZ- Aldana, Samuel Alberto:

PEREZ stated that he paid to be smuggled into the United States and eventually to Houston, Texas. PEREZ stated that he made arrangements with an unknown smuggler. PEREZ stated that he illegally entered the United States on or about May 19, 2015 with the help of an unknown smuggler. After staying at a house for about a week he was taken to a hotel. PEREZ stated that a woman with short hair arrived at the hotel and instructed himself and another man to get into the trunk. PEREZ was able to identify the driver of the vehicle after being shown a photo lineup. , PEREZ could not identify the passenger when shown a photo lineup. PEREZ stated that he did not pay the driver or passenger any money. PEREZ stated that the vehicle was a grey or silver colored car.

ORELLANA- Galdamez, Francisco Ernesto:

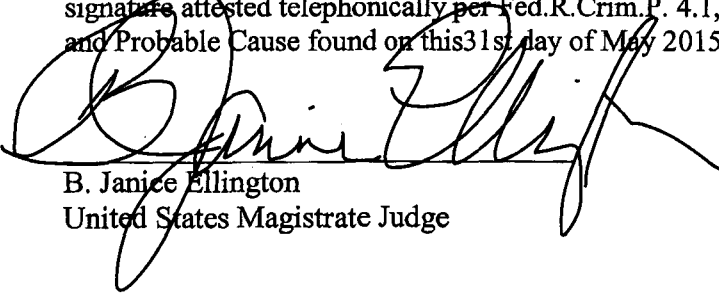
ORELLANA stated that he paid to be smuggled into the United States, and then to Houston, Texas. ORELLANA stated that he illegally entered the United States on or about May 18, 2015. ORELLANA stated that after crossing the river he was taken to a house where he stayed shortly before being taken to a hotel. ORELLANA stayed at the hotel until he was told to get inside the trunk of the car along with another man. ORELLANA stated that he was picked up by a masculine looking woman and another woman and instructed by both of the women to get into the trunk. ORELLANA was able to identify the driver and passenger after being shown a photo lineup. ORELLANA stated that he did not pay SILVA or ESCOBAR any money. ORELLANA stated that the vehicle was a light colored car and was picked up from the hotel while there was still daylight.

The facts of this case were presented to Assistant United States Attorney Sam Brown who accepted Kelly Marie Escobar and Marina Siva for prosecution of 8 USC 1324, Alien Smuggling. Samuel Alberto PEREZ- Aldana and Francisco Ernesto ORELLANA- Galdamez were held as material witnesses in this case.



Marvin Williams  
Border Patrol Agent

Submitted by reliable electronic means, sworn to and  
signature attested telephonically per Fed.R.Crim.P. 4.1,  
and Probable Cause found on this 31st day of May 2015



B. Janice Ellington  
United States Magistrate Judge